

REMARKS

Claims 1 - 7 are pending in this application. Independent claims 1 and 7 have been amended to remove reference to an inlet end, also as helpfully suggested by the Examiner. Claim 3 has been amended to properly recite an apex end and remove reference to a peaked end, as suggested by the Examiner. Support for reciting an apex end may be found in [0030]-[0031] and FIG. 1 of the originally filed specification, for example.

Independent claim 1 has been further amended to recite a neck portion that couples the hollow head to the tubular sleeve, with a transitioning outside diameter from the head outside diameter adjacent to the hollow head to the sleeve outside diameter adjacent to the tubular sleeve. Amended independent claim 1 further recites that the neck portion contacts a top opening of the ventilation pipe, and a transitioning outside diameter of the neck portion fits to a variety of ventilation pipe openings. Amended independent claim 7 includes similar amendments to amended independent claim 1. Support for the amendments to independent claims 1 and 7 may be found in [0044]-[0046] and FIGS. 16-17 of the originally filed specification, for example. Applicant respectfully requests allowance of the present application in view of the foregoing amendments and the following remarks.

Rejection of Claim 3 under 35 USC 112, First Paragraph

The Examiner rejected claim 3 under 35 USC 112, first paragraph, and contended that “peaked end” of claim 3 is not present in the specification. As discussed above, “apex end” has been properly recited and “peaked end” has been removed from claim 3, as helpfully suggested by the Examiner. Although the Examiner remarks that the specification does not state that the apex end 3 can apply to all embodiments, FIGS. 16-18 of the claimed invention illustratively include the same apex end previously discussed in other embodiments. Accordingly, claim 3 does fulfill the written description requirement under 35 USC 112, first paragraph.

Rejection of Claims 1 and 7 under 35 USC 112, Second Paragraph

The Examiner rejected claims 1 and 7 under 35 USC 112, second paragraph, and contended that each claim includes a preamble directed to a ventilation pipe protector, but include recitations to a ventilation pipe protector and a ventilation pipe. As discussed above, independent claims 1 and 7 have been amended such that the ventilation pipe protector comprises a tubular sleeve, a hollow head and a neck portion. As insightfully mentioned by the Examiner, the ventilation pipe is only referenced in independent claims 1 and 7 for defining a size of the tubular sleeve and for describing placement of the neck portion. Accordingly, amended independent claims 1 and 7 are clearly directed to a ventilation pipe protector and thereby fulfill 35 USC 112, second paragraph.

Rejection of Claims 1-7 under 35 USC 102

The Examiner rejected independent claims 1 and 7 based upon the Hernandez publication. The Hernandez publication discloses a vent ingress prevention device 10' placed in a vent pipe 50 atop a roof 51. The Examiner reproduced FIG. 6 of Hernandez with minor modifications in the Office Action, and contended that Hernandez discloses a tubular sleeve 14' with an outside diameter (d) smaller than a ventilation pipe 50 inside diameter (d). The Examiner further contended that Hernandez discloses a hollow head 10' with an outside diameter (e) larger than a sleeve 14' outer diameter (d).

As discussed above, independent claim 1 has been amended where the ventilation pipe protector further includes a neck portion to couple the hollow head to the tubular sleeve, with a transitioning outside diameter from the head outside diameter adjacent to the hollow head to the sleeve outside diameter adjacent to the tubular sleeve. Additionally, the neck portion contacts a top opening of the ventilation pipe. Based upon the Examiner's prior contentions, Hernandez fails to disclose a neck portion to couple the hollow head 10' to the tubular sleeve 14' with a transitioning outside diameter from the head outside diameter (e) to the sleeve outside diameter (d), where the neck portion contacts a top opening of the ventilation pipe and includes a transitioning outside diameter to fit to a variety of ventilation pipe openings, as recited in amended independent claim 1. The tubular sleeve 14' of Hernandez with an outside diameter (d) contacts the top opening of the ventilation pipe, and fits the ventilation pipe opening illustrated in FIG. 6. Independent claim 7 includes similar amendments to independent claim 1. Accordingly, Hernandez fails to disclose a ventilation pipe protector, as recited in independent claims 1 and 7.

Thus, independent claims 1 and 7 are patentable over the prior art. In view of the patentability of the independent claims, it is also submitted that all of their dependent claims, that recite yet further distinguishing features, are also patentable. These dependent claims require no further discussion herein.

Rejection of Claims 3, 5 and 6 under 35 USC 103

The Examiner rejected claims 3, 5 and 6 based upon the Hernandez publication in view of several secondary references. The Hernandez publication is discussed above, along with its critical deficiencies in regard to amended independent claims 1 and 7. None of the cited secondary prior art references (McDonald, Levy, Brenner) account for these noted critical deficiencies of Hernandez in regard to amended independent claims 1 and 7.


Thus, independent claims 1 and 7 are patentable over the prior art. In view of the patentability of the independent claims, it is also submitted that all of their dependent claims, including claims 3, 5 and 6, that recite yet further distinguishing features, are also patentable. These dependent claims require no further discussion herein.

Conclusion

In view of the remarks provided herein, it is submitted that all of the claims are patentable over the prior art. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any further informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

Dated: 10/30/06

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